

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DANIEL JEAN-LOUIS,)	
Petitioner)	
)	
v.)	C.A. No. 05-11274-DPW
)	
UNITED STATES OF)	(Crim. No. 00-10234-DPW)
AMERICA,)	
Respondent)	

**PETITIONER’S MOTION TO VACATE, SET ASIDE OR CORRECT
SENTENCE**

NOW COMES the Petitioner in the above-entitled matter, and respectfully petitions this Honorable Court, pursuant to 28 U.S. C. section 2255, to vacate and correct his sentence accordingly. Specifically, as set forth herein, the Petitioner seeks to have this Honorable Court reduce the amount of loss attributable based upon his role in the offense to less than \$10,000.

Facts and Procedural History

Petitioner was charged in a one-count Information filed on July 6, 2000, with conspiracy to commit bank fraud in violation of 18 U.S.C. section 371. On July 20, 2000, Petitioner signed a plea agreement with the government, waived indictment and entered a guilty plea to the single-count information before the Honorable Woodlock, J. Petitioner was sentenced on November 15, 2000. The defendant was sentenced to three years probation, a \$100 mandatory assessment and restitution in the amount of \$12,869.01. The Court additionally required 250 hours of community service per year for the first two years of probation.

Argument

The Petitioner takes issue with the amount of restitution attributed to him by the Court. As a result of the plea entered in this matter, the Department of Homeland Security commenced deportation proceedings against the Petitioner, a citizen of Haiti. The Petitioner has been held by immigration authorities for approximately one year, first in Passaic, New Jersey and recently in Oakdale, Louisiana. Due to the fact that the amount of restitution exceeded \$10,000, the Petitioner the charges to which the Petitioner pleaded guilty have been deemed an aggravated felony as defined by I.N.A. 101(a)(43)(m)(i) and 101(a)(43)(u).

The Petitioner avers that the loss attributable to him should have been one-half of the amount of the total loss, or \$6,434.51. The Petitioner avers that the ringleader of the events in question, Richardson Rhau, should be held accountable for half of the money currently attributed to him. The Petitioner's role in the offense was limited to depositing a check into a fraudulent account. There has never been an allegation made by the Government that the Petitioner personally benefited in any way, shape or form from his illegal actions.

In light of his Immigration classification as an aggravated felon, the Petitioner avers that the interests of justice would be served by this Honorable Court vacating the original sentence imposed, and by modifying the restitution figure to \$6,434.51.

Request for a Hearing

The Petitioner respectfully requests a hearing on the merits of this Motion so that this Honorable Court can hear, first-hand, the horrors that await him should he be deported to Haiti. The Petitioner is confident that upon hearing what awaits him upon repatriation, this Honorable Court will allow his Motion.

Respectfully submitted,
Daniel Jean-Louis,
By his attorney,

/s/ William A. Korman
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Dated: September 12, 2005